

AMY KLOBUCHAR
MINNESOTA

COMMITTEES:
AGRICULTURE, NUTRITION,
AND FORESTRY
COMMERCE, SCIENCE,
AND TRANSPORTATION
JOINT ECONOMIC COMMITTEE
JUDICIARY

United States Senate
WASHINGTON, DC 20510

March 16, 2011

0343

The Honorable Julius Genachowski
Chairman
Federal Communications Commission
445 12th Street SW
Washington, DC 20554

Dear Chairman Genachowski:

We write to you today about wireless broadband and data roaming practices. Wireless data services are becoming an increasingly important part of consumers' daily lives, yet many consumers suffer from a lack of adequate wireless coverage, particularly in rural areas. To ensure that *all* consumers have access to wireless broadband services, we urge the Federal Communications Commission (FCC) to consider rules that ensure data roaming is provided on just and reasonable terms. This will help promote competition in the wireless industry and encourage investment in the build-out of wireless data systems.

By establishing clear rules on data roaming, the FCC can help provide certainty to both large and small wireless providers. As you know, small wireless carriers in rural areas are currently unwilling or unable to expand their infrastructure due to the unavailability of data roaming or the fluctuation in the price of data roaming charged by large carriers. Similarly, large carriers have little incentive to improve rural service so long as uncertainty exists about future data roaming requirements. This standoff shortchanges consumers and denies businesses an important communications tool.

That the FCC should consider clear rules for data roaming is bolstered by the success of its 2007 ruling on voice roaming. Under that rule -- which set-up a system for negotiating voice roaming rates -- carriers have been able to reach pro-consumer roaming agreements and exorbitant roaming charges have disappeared from phone bills. At the same time, smaller providers have been able to increase their investment in infrastructure and consumers have benefitted from more competition and better service. Now, as wireless data is quickly becoming a critical part of consumers' cell phone needs, the FCC needs to do the same for data roaming.

We urge the FCC to ensure consumers have access to seamless data coverage and to incentivize carrier investment and innovation in wireless network services. We look forward to working with you on this issue.

Sincerely,



Amy Klobuchar
United States Senator



John F. Kerry
United States Senator



FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

March 18, 2011

OFFICE OF
THE CHAIRMAN

The Honorable Amy Klobuchar
United States Senate
302 Hart Senate Office Building
Washington, D.C. 20510

Dear Senator Klobuchar:

Thank you for your recent letter urging the Commission to move forward with its rulemaking on the data roaming obligations of commercial wireless providers. I am pleased to report that, based on an extensive record and the recommendation of the FCC staff, today I am circulating to my colleagues a draft order for their consideration that puts in place an obligation on providers of commercial mobile data services to offer roaming arrangements to other such providers on commercially reasonable terms and conditions, subject to certain limitations intended to protect the legitimate interests of the companies that would be providing roaming. Such an approach would stimulate constructive private commercial negotiations, unleash investment in networks, and ultimately foster competition and benefit consumers.

For nearly 30 years, the Commission has, on a bipartisan basis, required roaming in one form or another to "continue to foster the development of seamless automatic roaming services for all [] subscribers in the nation."¹ As you are likely aware, the National Broadband Plan identified data roaming as a key element of a healthy broadband ecosystem. The Plan explained that "[d]ata roaming is important to entry and competition for mobile broadband services and would enable customers to obtain access to e-mail, the Internet and other mobile broadband services outside the geographic regions served by their providers." In April 2010, the Commission unanimously adopted a Notice of Proposed Rulemaking that sought further comment on whether to implement a data roaming requirement for wireless providers in order to ensure that Americans had access to multiple competitive providers that offer seamless nationwide voice and data coverage.

Through the record in this proceeding, it has become clear that a data roaming rule is necessary to ensure vibrant competition in the mobile marketplace, to unleash billions of dollars of investment that is currently sidelined, to create thousands of new jobs and to meet the consumer demand for seamless nationwide coverage, be it for voice or data. The record contains abundant evidence from both national and rural businesses that a data roaming rule is necessary to achieve these important goals because some providers have been unwilling to negotiate either 3G or 4G data roaming agreements or have created long delays or taken other steps to impede healthy competition and roaming for consumers. Moreover, as the mobile world moves to LTE,

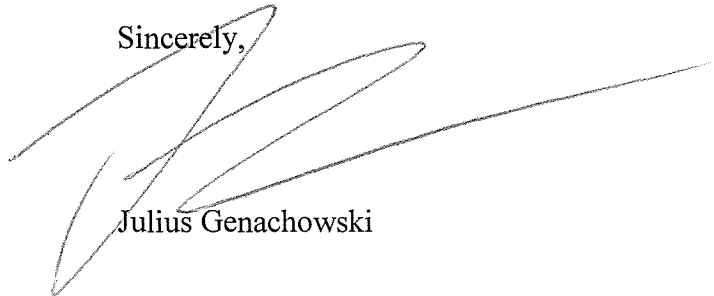
¹ Reexamination of Roaming Obligations of Commercial Mobile Radio Service Providers, WT Docket No. 05-265, *Report and Order and Further Notice of Proposed Rulemaking*, 22 FCC Rcd 15817, 15831 ¶ 35 (2007).

the Commission's basic bipartisan voice roaming rules will be in jeopardy, as they will no longer ensure automatic voice roaming.

To address these issues, I have proposed data roaming rules that incent potential roaming partners to come to the bargaining table to negotiate private commercial deals. These rules also balance the need for commercial roaming agreements with the legitimate challenges posed by network congestion. Moreover, it ensures that the Commission is merely a backstop in the process, and that it is in the best interest of all parties to work out private deals without relying on the Commission.

Thank you again for taking the time to express your views on this very important matter. I am happy to answer any further questions you may have.

Sincerely,

A handwritten signature in black ink, consisting of several fluid, overlapping loops and a long horizontal stroke extending to the right.

Julius Genachowski



OFFICE OF
THE CHAIRMAN

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

March 18, 2011

The Honorable John F. Kerry
Chairman
Subcommittee on Communications, Technology,
and the Internet
Committee on Commerce, Science, and Transportation
United States Senate
218 Russell Senate Office Building
Washington, D.C. 20510

Dear Chairman Kerry:

Thank you for your recent letter urging the Commission to move forward with its rulemaking on the data roaming obligations of commercial wireless providers. I am pleased to report that, based on an extensive record and the recommendation of the FCC staff, today I am circulating to my colleagues a draft order for their consideration that puts in place an obligation on providers of commercial mobile data services to offer roaming arrangements to other such providers on commercially reasonable terms and conditions, subject to certain limitations intended to protect the legitimate interests of the companies that would be providing roaming. Such an approach would stimulate constructive private commercial negotiations, unleash investment in networks, and ultimately foster competition and benefit consumers.

For nearly 30 years, the Commission has, on a bipartisan basis, required roaming in one form or another to "continue to foster the development of seamless automatic roaming services for all [] subscribers in the nation."¹ As you are likely aware, the National Broadband Plan identified data roaming as a key element of a healthy broadband ecosystem. The Plan explained that "[d]ata roaming is important to entry and competition for mobile broadband services and would enable customers to obtain access to e-mail, the Internet and other mobile broadband services outside the geographic regions served by their providers." In April 2010, the Commission unanimously adopted a Notice of Proposed Rulemaking that sought further comment on whether to implement a data roaming requirement for wireless providers in order to ensure that Americans had access to multiple competitive providers that offer seamless nationwide voice and data coverage.

Through the record in this proceeding, it has become clear that a data roaming rule is necessary to ensure vibrant competition in the mobile marketplace, to unleash billions of dollars of investment that is currently sidelined, to create thousands of new jobs and to meet the consumer demand for seamless nationwide coverage, be it for voice or data. The record contains abundant evidence from both national and rural businesses that a data roaming rule is necessary

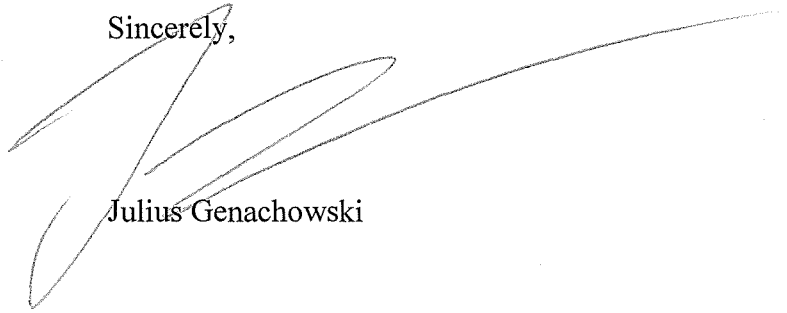
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to achieve these important goals because some providers have been unwilling to negotiate either 3G or 4G data roaming agreements or have created long delays or taken other steps to impede healthy competition and roaming for consumers. Moreover, as the mobile world moves to LTE, the Commission's basic bipartisan voice roaming rules will be in jeopardy, as they will no longer ensure automatic voice roaming.

To address these issues, I have proposed data roaming rules that incent potential roaming partners to come to the bargaining table to negotiate private commercial deals. These rules also balance the need for commercial roaming agreements with the legitimate challenges posed by network congestion. Moreover, it ensures that the Commission is merely a backstop in the process, and that it is in the best interest of all parties to work out private deals without relying on the Commission.

Thank you again for taking the time to express your views on this very important matter. I am happy to answer any further questions you may have.

Sincerely,

A large, stylized handwritten signature in dark ink, consisting of several sweeping loops and a long horizontal stroke extending to the right.

Julius Genachowski